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| 09/779,779      | 02/08/2001  | Jean M. Goldschmidt Iki | 42390P6482D         | 6746             |

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| EXAMINER |
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RAMAN, USHA

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2623

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

09/779,779

Applicant(s)

GOLDSCHMIDT IKI ET AL.

Examiner

Usha Raman

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 16 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Response to Arguments***

1. Applicant's arguments filed March 16<sup>th</sup>, 2007 have been fully considered but they are not persuasive. Applicant's arguments stating that, "a set of characteristics" should be equated to "multiple characteristics" have been noted. However, examiner notes that in the mathematical sense, a set by definition can comprise zero to infinity elements, and therefore a "set of characteristics" can include *any* number of characteristics unless the size of the set is specifically stated. Schein also discloses that a user can set preferences to activate a particular source when overlap of channels occur. Schein therefore teaches displaying only programming associated with the activated source in the program guide, thereby enabling selection of only the activated channels. It is further noted that, overlapped channels and sources need to be identified and compared in order to determine which of the sources need to be displayed.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-5, 7, 9-19, 21-22 and 25 rejected under 35 U.S.C. 102(e) as being anticipated by Schein et al. (US PG Pub. 2006/0168620).

With regards to claims 1, 10 and 16 Schein discloses an apparatus and a method comprising:

Receiving an EPG at the electronic device (see [0026]);

Receiving a selection of entertainment program within the EPG from a user at the electronic device (see [0032], [0033]);

Identifying multiple available versions of the same selected entertainment program in the EPG (see [0034]), wherein each of the multiple versions of the same program has a set of characteristics (i.e. airtime, network, signal source, see [0031] and [0035]) indicated by program guide.

Schein also discloses the step of tagging each of the channels with a source identifier (i.e. characteristics) in a merged program guide (see [0018].

Schein discloses the step of identifying multiple available versions of the same selected entertainment program in the electronic programming guide when a user selects "when else" option (see fig. 3)

Schein discloses the step of identifying, for each of the multiple versions a set of characteristics of each respective version of the same selected entertainment program (see fig. 3, "set of characteristics" include, date, airtimes, program source, etc.)

Schein also discloses that a user preferences for entertainment program characteristics from a user at an electronic device (i.e. when overlap of channels occur, user has the ability to activate the display of the channel or delete in the program guide, see [0031])

Schein additionally discloses the step of storing electronic program guide and displaying program guide according to viewer activated preferences and therefore comprises the step of storing viewer preferences for displaying the channel on the EPG (see [0026], see [0031])

Upon a user selection to activate a source (e.g. activating only NBC on DBS), the electronic device compares the identified received preferences (NBC and DBS) to the identified characteristics (NBC on DBS and cable) of the multiple versions (overlap of NBC from two different sources and therefore overlap at least some programming, see [0031]), and selects for display one of the multiple versions corresponding to the characteristics matching the viewer preference (i.e. only NBC on DBS maybe activated to display and therefore used for selection of programs, see fig. 3).

With further regards to claim 10, the methods are computer executable instructions stored in memory (28) and executed by a processor (26). See Schein: [0024] and [0038]

With regards to claims 2, 11 and 17, the system comprises the step of identifying multiple versions of the entertainment program that start within a threshold period of one another (see Schein: [0038], step 402).

With regards to claims 3, 12 and 18, the multiple versions are provided on different transport media (i.e. DBS and cable), and the system further identifies information regarding the channel transport medium (see Schein: [0018]) and the

selection comprises selecting based on the set of transport medium descriptive information (see Schein [0031]).

With regards to claims 4, 13, 19 the system comprises the step of identifying multiple versions that all start approximately at the same time. See Schein: [0038], step 402.

With regards to claims 5, and 14, the selection comprises selecting one of multiple versions having the identified characteristics (e.g. selection source) most closely resembling the user preferences (e.g. preferred selection source) for entertainment program characteristics. See Schein: [0018], [0031].

With regards to claims 7, 15, and 21, the identified characteristic for each of the multiple versions includes the channel transport medium. See Schein [0018].

With regards to claim 9, the system comprises the step of identifying multiple versions in the EPG. See Schein: [0034], [0035].

With regards to claims 22, the system comprises the step of determining the user preferences by receiving preference information through manual inputs from a user. See Schein [0031], the step of "activating" and "deletion" require user intervention, and therefore are "manual inputs" from the user.

With regards to claims 25, the system comprises a user interface controller for receiving preferences through manual information inputs from a user. See Schein: [0024]

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 6, 8, 20, 23-24 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schein et al. (US PG Pub. 2006/0168620) in view of Rosser (US Pat. 6,446,261).

Regarding claims 6 and 20, the system of Schein does not comprise the step of selecting one of multiple versions having the most number of characteristics that conform to user preferences.

Rosser teaches the step of using a set of user preferences to select one of multiple versions of content (col. 7 lines 45-57, col. 8 lines 20-65, col. 10 lines 20-35, col. 12 lines 1-20, 60-67, col. 13 lines 35-48, collecting data for an exclusive user database to select content). Rosser shows selecting one of a multiple of content versions based on a set of descriptive information most closely resembling the set of user preferences (col. 8 lines 20-63, col. 12 lines 55-67, col. 13 lines 1-12, 35-45).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system in view of Rosser's teachings by selecting one of the multiple versions of the entertainment program having the most number of

characteristics that conform to the user preferences in order to provide the user with a more customized stream of programming.

Regarding claims 8, 23, and 24, the system of Schein does not comprise the steps of identifying a user of an entertainment system, accessing user preferences for the identified user and then selecting one of the multiple versions for display based on the accessed user preferences.

Rosser teaches the step of using a set of user preferences to select one of multiple versions of content (col. 7 lines 45-57, col. 8 lines 20-65, col. 10 lines 20-35, col. 12 lines 1-20, 60-67, col. 13 lines 35-48, collecting data for an exclusive user database to select content). Rosser shows identifying a user of an entertainment system (col. 15 lines 5-28), accessing user preferences for the identified user (col. 15 lines 28), and selecting content from versions of content based on a comparison of the sets of descriptive information (col. 14 lines 50-60).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system in view of Rosser's teachings by identifying a user of the system and then selecting one of the multiple versions of the entertainment program conforming to the identified user's preferences in order to provide customized programming for each of the users a multi-user system.

With further regards to Claim 23 and 26, Rosser shows determining the user preferences by monitoring the behavior of the user (col. 8 lines 1-55, col. 9 lines 50-67, col. 12 lines 1-5).




**Conclusion**

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Usha Raman whose telephone number is (571) 272-7380. The examiner can normally be reached on Mon-Fri: 9am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Usha Raman

  
SCOTT E. BELIVEAU  
PRIMARY PATENT EXAMINER